

TIBS (12 FCC Rcd 2254),¹² he had a contrary understanding; namely, that the Review Board's *conclusions* and its subsequent approval of the San Bernardino settlement, resolved the issue. Tr. 2637-39.

B. Renewal Expectancy

Relevant Time Period

42. By Memorandum Opinion and Order, FCC 99M-47, released August 9, 1999, the presiding judge determined that the relevant time period for considering RBI's entitlement to a renewal expectancy began August 1, 1989, and ended August 1, 1994. Hereafter, the Bureau will refer to this period as the renewal period.

Community Ascertainment

43. According to George Mattmiller, WTVE(TV) station manager from August 1, 1989 until February 1992, ascertainment during this period primarily took the form of staff referrals; that is, RBI learned about particular community problems, interests and needs as a result of contacts by RBI sales personnel with members of the local community. RBI Ex. 6, pp. 1, 5; Tr. 571. Station personnel also became aware of community concerns through review of the local newspaper, the Reading Eagle, and review of materials sent to the station. Tr. 454, 572, 577.

¹² In Two If By Sea Broadcasting Corporation, 12 FCC Rcd at 2257, the Commission stated:

Serious character questions also remain regarding the assignee, Parker/TIBS. For example, in one instance an administrative law judge disqualified an applicant in a comparative hearing for a new television station after finding Parker to be an undisclosed principal in that applicant. *See Religious Broadcasting Network*, 2 FCC Rcd 6561, 6566-67 (I.D. 1987). The Review Board upheld the disqualification, characterizing the application as a "travesty and a hoax." 3 FCC Rcd 4085, 4090 (Rev. Bd. 1988), and the applicant as a "transpicuous sham" which had "attempted fraud" upon the Commission. *Id.* at 4091.

44. Beginning in mid-1992 and continuing through the remainder of the renewal period, RBI expanded its efforts by sending questionnaires to business leaders and schools and by placing calls to charitable organizations such as the United Way, Easter Seals, American Cancer Society and the American Red Cross. RBI Ex. 6, p. 5; Tr. 453-55, 577. *See also, e.g.*, RBI Ex. 8, App. P, pp. 26-32; App. Q, pp. 225-46, 49-52; App. R, pp. 273-78; App. S, pp. 214-17, 219-20; App. T, pp. 165-73; App. V, pp. 58-70. RBI also ascertained community problems by questioning guests who appeared for taping of program material at the station's studio and by questioning students during classroom visits by station personnel. Tr. 1698.

45. According to Daniel Bendetti, who served as a station manager during the renewal period, RBI collected ascertainment results quarterly. Tr. 1732. While he was at WTVE(TV), Ralph Tobias, the station employee then responsible for ascertainment, decided which issues were most significant and then used those issues to pose questions to local residents in conjunction with the taping of "Streetwise," a two-minute program that, when it was on the air, generally aired twice a day. RBI Ex. 8, Apps. C, p. 17, D, p. 14; Tr. 457, 576, 588-89. After Mr. Tobias' departure, Kimberley Bradley collected ascertainment information and sought out program material or potential guests who could talk about community concerns for a WTVE(TV) program called "In Touch." Tr. 460-71, 581-82.

46. According to Mr. Bendetti, however, ascertainment usually did not have an impact on WTVE(TV)'s "public service" program offerings. Tr. 1666-67, 1732-33. In this regard, such fare often came from material taken satellite feeds, which station personnel deemed pertinent to the station's viewing area and from material supplied by

organizations such as the March of Dimes. Tr. 461-65, 1734. In a similar vein, Micheal Parker, RBI's general manager throughout the renewal period, testified that he did not tabulate ascertained needs, nor did he direct anyone to do so. In addition, Mr. Parker could not recall whether station personnel ever produced for his review a document that indicated what the community's significant problems were. Tr. 830-31. Finally, a comparison of headlines from the Reading Eagle (see Adams Exs. 3-7) with WTVE(TV)'s "Issues and Programs Report[s]" (see RBI Ex. 8, Apps. C through W), which include many of the same topics quarter after quarter, suggests that RBI did not focus much attention on issues actually affecting Reading and the surrounding area. In this regard, it appeared that ascertained community problems either merited a public service announcement or nothing at all. Specifically, when asked to identify a programmatic response to ascertained community problems, Mr. Parker could either not identify any such program or could point only to public service announcements. Tr. 832-47.

Responsive Programming

47. Throughout the renewal period, WTVE(TV) was an affiliate of the Home Shopping Network. RBI Ex. 6, p. 2; RBI Ex. 8, p. 1. In accordance with its affiliation agreement, WTVE(TV) generally aired Home Shopping Club programming for approximately 53 to 55 minutes per hour. During the remaining five to seven minutes per hour, WTVE(TV) broadcast a mixture of public service offerings, public service announcements, commercials, promotional announcements, and required station identifications. RBI Ex. 8, p. 1. At various times, however, WTVE(TV) would air programs that exceeded 15 minutes in length. Such programming consisted of religious

programs, children's programs, political programs, and certain special or seasonal programs. *Id.*

48. Generally, WTVE(TV) did not broadcast its public service offerings or other non-entertainment programming on a regularly-scheduled basis. In this regard, although the station's typical public service programming usually appeared during the five to seven minute windows noted above, no particular program aired during the same time slots on a daily or weekly basis, and each particular program was often repeated fifteen or more times during its run on WTVE(TV). *See, e.g.,* RBI Ex. 8, App. S, pp. 66-68, 74 ("News to You"); Tr. 471-73. Moreover, during the renewal period, neither the Reading Eagle nor any published television guide advised viewers as to when any particular WTVE(TV) program would be broadcast.¹³ Adams Ex. 11; Adams Ex. 12; Tr. 591-93, 1795. Finally, Mr. Parker acknowledged that the station primarily addressed community problems through the airing of public service announcements ("PSAs"). Tr. 847-49. PSAs almost invariably appeared on a "run-of-schedule" basis; that is, they aired when time was available during the station's daily schedule. Tr. 472-73. Mr. Parker defended reliance on PSAs because of the demands imposed by the station's home shopping format and the station's financial situation. Tr. 847-49. In short, throughout much of the renewal period, interested viewers often had great difficulty ascertaining when a particular program would appear. Tr. 473, 476, 591-93, 598, 1794.

¹³ In this connection, the Bureau notes that in RBI Ex. 8, App. W, p. 51A, an unnamed publication states that the program, "Minority Voices," was scheduled to appear on Tuesdays and Thursdays at 8:20 a.m. and 8:20 p.m. However, other records supplied by RBI indicate that, when WTVE(TV) finally began to broadcast the program (in September 1994), it did not appear at any regular time. RBI Ex. 8, App. W, pp. 149-50.

49. Nonetheless, during the renewal period, WTVE(TV) broadcast several locally produced programs¹⁴ in response to ascertained needs. In addition, WTVE(TV) broadcast a number of other programs and public service announcements. The list of such material follows.

Programs

50. "Streetwise" was a two-minute "man-on-the-street" interview-type program produced by WTVE(TV) during which station personnel asked members of the public to expound on an issue of the day. RBI Ex. 8, p. 2; Tr. 588-89. It aired between August 1, 1989 and November 27, 1989. RBI Ex. 8, App. C, p. 17, App. D, p. 14. RBI's "Programs/Issues Report" for the third quarter of 1989 reflects that the "questions ranged from flag burning to literacy, from freedom to prison inmates working for their keep." RBI, Ex. 8, App. C, p. 16. RBI's "Program/Issues Report" for the fourth quarter of 1989 reflects that the "questions ranged from hostages in Beirut to rights Americans take for granted." RBI Ex. 8, App. D, p. 14. "Streetwise" aired twice a day, generally around 9:20 in the morning and 6:20 in the evening. RBI Ex. 8, App. C (third quarter 1989), p. 16, App. D (fourth quarter 1989), p. 14. Ms. Bradley testified that "Streetwise" directly responded to ascertained needs. Tr. 458.

¹⁴ The following public service "programs" were also identified at various times as public service announcements in RBI's issues and programs reports: "Streetwise," "In Touch," "News to You," "Healthbeat," "Elderly Report," "Community Outreach," "Take 3," and "Kids Korner." RBI Ex. 8, *passim*.

51. “In Touch” was a three-minute program¹⁵ produced by WTVE(TV) that featured a host and a guest who discussed selected topics. RBI Ex. 8, p. 2; Tr. 463, 581-83. Each program focused on one topic, which RBI determined dealt with an issue of public concern. RBI Ex. 8, App. C, p. 3; Tr. 458. At times, the topic discussed would appear on more than one segment as part of a series. RBI Ex. 8, p. 2. On the days that it aired in 1989, “In Touch” was generally broadcast twice a day, once in the late morning or early afternoon, and then again in the early evening. RBI Ex. 8, App. C, pp. 6-8, 13-15, App. D, pp. 5-6, 9, 11-13, 19, App. B (January 7, 1990, pp. 5, 7). In 1993, “In Touch” often aired three times during any given day. RBI, Ex. 8, App. B (March 16, 1993, pp. 3, 5-6), App. Q, pp. 11-12, 24, App. R, pp. 29-30, 122-131.

52. Topics covered on “In Touch” included: consumer protection (RBI Ex. 8, App. C, p. 13); foster parenting (RBI Ex. 8, App. C, p. 14); pet care (RBI Ex. 8, App. C, p. 15); drunk driving (RBI Ex. 8, App. Q, p. 4); speech and hearing ailments and treatments (RBI Ex. 8, App. Q, p. 11); a youth exchange program (RBI Ex. 8, App. Q, p. 12); making marriage work (RBI Ex. 8, Apps. C, p. 15 and Q, p. 17); AIDS and other health-care topics (RBI Ex. 8, App. R, pp. 29-30). Participants included a speech therapist, a midwife, a dietician, a gastroenterologist, the deputy attorney general of Pennsylvania’s Bureau of Consumer Protection, the director of the Berks County Humane Society, a neurologist, a laboratory medical director, and a chiropractor. RBI Ex. 8, App. C, pp. 7-8, 13, 15, App. D, p. 5, App. Q, pp. 29-30.

¹⁵ Although identified as a “program” by Ms. Bradley, “In Touch” was also identified as a public service announcement in WTVE(TV)’s 1993 issues/programs report and program logs. *Compare* RBI Ex. 8, p. 2, *with* RBI Ex. 8, App. B (March 16, 1993, pp. 3, 5-6), App. Q, p. 24, App. R, p. 122 and Adams Ex. 6, p. 43.

53. "News to You" generally aired in two to three-minute segments. Tr. 460, 464. It "provided a "soft news" look at topical issues such as health ..., family concerns ..., consumer issues ... and crime/safety" RBI Ex. 8, p. 2. Material was downloaded from satellite feeds. Tr. 461. RBI inserted "News to You" segments into WTVE(TV)'s available time slots, usually twice a day. Tr. 472-73.

54. "Healthbeat" or "Health Report" began airing in the fourth quarter of 1992. *Compare* RBI Ex. 8, Apps. C through O, *with* App. B (December 19, 1992, program log; March 16, 1993, program log; April 18, 1993, program log; and 1994 program logs). It usually ran for three minutes. *Id.* RBI took "stock footage from a newsfeed company and localize[d] the features with wraparound information about ... groups and organizations" such as the American Cancer Society, Community Hospital, Reading Hospital, and the American Red Cross. RBI Ex. 8, App. P, p. 17.

55. "Elderly Report" also began airing in the fourth quarter of 1992. *Compare* RBI Ex. 8, Apps. C through O, *with* App. P. It usually ran for three minutes. *Id.* As it did with "Health Report," RBI took "stock footage from a newsfeed company and localize[d] the features with wraparound information about the following area senior groups" such as the Berks County Office of Aging, the Berks County Senior Citizens Council, and the Temple Association for Retired Persons. RBI Ex. 8, App. P, pp. 8-9.

56. "Community Outreach" began airing in the second quarter of 1993. *Compare* RBI Ex. 8, Apps. C through Q *with* App. R. RBI produced this three-minute program, which initially featured a host and one or more guests, who would discuss a topic of local interest. RBI Ex. 8, p. 2; Tr. 477. Topics discussed included local volunteer efforts and organizations (RBI Ex. 8, App. R, pp. 36-37); cooking tips (RBI Ex. 8, App. S, p. 17);

wedding preparations (RBI Ex. 8, App. V, pp. 21-22); taking a cruise (RBI Ex. 8, App. T, p. 17); reducing driving while under the influence of alcohol (RBI Ex. 8, App. U, p. 4); other issues related to alcohol (RBI Ex. 8, App. V, pp. 3-4); child abuse (*Id.*, p. 12); recycling/community clean-up (*Id.*, pp. 16-17); home safety (*Id.*, p. 23); and the importance of dietary calcium to people (*Id.*, p. 33).¹⁶

57. "Take 3" was a three to four-minute program that WTVE(TV) helped local youths produce, and it dealt with issues of interest to them. RBI Ex. 8, p. 3; Adams Ex. 7, p. 131; Tr. 465-66. WTVE(TV) began airing "Take 3" in the second quarter of 1993. *Compare* RBI Ex. 8, App. Q with App. R. Examples of topics covered include results of driving under the influence of alcohol (RBI Ex. 8, App. R, p. 4), musical instruments used by high school bands (RBI Ex. 8, App. S, p. 16), selecting a college (*Id.*), keeping food safe while camping (*Id.*), and the Reading Planetarium (RBI Ex. 8, App. T, p. 19).

58. "Kids Korner" was a 90 second to three and one-half minute program¹⁷ produced by WTVE(TV), which dealt with issues of interest to children. RBI Ex. 8, p. 3, App. B (February 11, 1994, p. 7), App. R, pp. 150-51, App. V, pp. 253-61. WTVE(TV) began broadcasting "Kids Korner" in the second quarter of 1993. *Compare* RBI Ex. 8, App. Q with App. R. Examples of issues covered include pet care (RBI Ex. 8, App. R, p. 10), dinosaurs (*Id.*), recycling (*Id.*, p. 11), the life of Milton Hershey (RBI Ex. 8, App. T,

¹⁶ RBI listed "Around Our Town" as a locally-produced program, which focused on topics related to the local environment and community events. RBI Ex. 8, p. 3. However, RBI does not state when "Around Our Town" was broadcast, and a review of its other exhibits does not reveal when it aired, how long it was, or what topics it covered.

¹⁷ Some of RBI's exhibits refer to "Kids Korner" as a "PSA." *E.g.*, RBI Ex. 8, App. T, p. 10. RBI's "Children's Issues and Program Report" identifies "Kids Korner" as a public service segment. *E.g.*, *Id.*, App. X, pp. 169, 219-22.

p. 8), and an elementary school science curriculum (*Id.* at p. 9). When “Kids Korner” aired, it could appear as many as three times per day at various times. RBI Ex. 8, App. V, pp. 253-61.

59. Beginning sometime in the second quarter of 1993, WTVE(TV) began broadcasting programs produced by the Pennsylvania state house Democratic party. The programs were designed to keep “viewers apprised of various government topics.” RBI Ex. 8, App. R, p. 22. Shortly after their debut, WTVE(TV) began alternating between programs produced by the Democratic and the Republican parties. Tr. 1694. The programs usually featured state legislators who represented Reading and/or the surrounding area. RBI Ex. 8, p. 7. Station records reflect that the programs were usually approximately 30 minutes long and that they were aired on Sundays between 9:30 a.m. and 11:30 a.m. RBI Ex. 8, App. U, pp. 266-75; RBI Ex. 8, App. B (March 6, 1994 log, p. 6); Adams Ex. 7, p. 82. Sometimes, WTVE(TV) would broadcast two programs on the same Sunday. RBI Ex. 8, App. B (March 6, 1994 log, p. 6). According to Mr. Bendetti, WTVE(TV) did not broadcast the programs during election campaigns. Tr. 1694.

60. “The Informative Moment” was a Spanish-language program produced by WTVE(TV) to address issues of interest to the station’s Hispanic audience. RBI Ex. 8, p. 3; Tr. 470. It first appeared in April 1994 and ran for three minutes. RBI Ex. 8, App. B (Monday April 4, 1994 log, p. 5). A host and guest discussed topics related to the guest’s struggle to free himself from drugs. RBI Ex. 8, App. V, p. 26. Station records indicate that, when it appeared, “The Informative Moment” was broadcast at approximately 8:20 in the morning and again at 8:20 in the evening. RBI Ex. 8, App. B, pp. 5, 11; RBI Ex. 8, App. V, pp. 218-220, 224-26.

61. “For the People” was a three-minute program produced by WTVE(TV), which focused on state and local political issues. RBI Ex. 8, p. 3; Tr. 470. “For the People” first appeared in June 1994, shortly before the end of the renewal period. RBI Ex. 8, App. B (June 23, 1994 log, p. 6), App. V, pp. 213-14. As with many of WTVE(TV)’s public service offerings, “For the People” appeared at various times during the days it aired. *Id.*

Public Service Announcements (“PSAs”)

62. WTVE(TV) broadcast numerous PSAs throughout the renewal period. Indeed, a typical day could include between 30 to 50 such announcements, aired throughout the day. *See, e.g.*, Adams Ex. 7, pp. 5-12, 22-32. RBI produced some of the PSAs; others were obtained from local, regional or national organizations. In some instances, WTVE(TV) worked with a local chapter of a national organization to localize a PSA. Two WTVE(TV) PSAs won awards from the Pennsylvania Association of Broadcasters. RBI Ex. 8, pp. 3-4.

63. PSAs carried by WTVE(TV) covered matters pertaining to: announcements of local events; pet adoption; missing children; apprehension of suspected criminals; health and safety; education; civic and social concerns; the environment; persons with disabilities; the elderly; children; the armed forces; and religious groups. RBI Ex. 8, pp. 4-6. The timing and quality of WTVE(TV)’s PSAs are attested to by various community witnesses (*see, infra*) and in letters received by RBI throughout the license term. *E.g.*, RBI Ex. 8, App. H, pp. 7-10; App. I, pp. 8-9; App. L, pp. 11-15; App. N, pp. 14, 16-18; App. O, pp. 17-18; App. P, p. 37.

Children's Programming

64. Beginning in the fourth quarter of 1992,¹⁸ WTVE(TV) broadcast several children's programs. RBI Ex. 8, p. 8, App. P, pp. 4, 47-48, App. X, pp. 18, 23-26. None of the programs were locally produced. WTVE(TV) would normally air its children's fare on Saturday and/or Sunday mornings.

65. "Go For It" was a 30 minute program broadcast by WTVE(TV), which began around 9:30 a.m. on Saturdays from October 31, 1992 to December 5, 1992. RBI Ex. 8, App. X, pp. 18-19, 23. Guests included current or former professional athletes who were involved in interviews that stressed the importance of fitness and who provided advice about developing various sports skills. *Id.*, pp. 18-19.

66. From November 1, 1992 through December 13, 1992, WTVE(TV) broadcast a half-hour program called "Candid Kids Club." RBI Ex. 8, App. X, p. 24. Topics covered by the program included learning to fly, health tips on warm-up exercises, the life of a sea mammal, "Magic" Johnson's life with the HIV virus, a book review and a movie review. *Id.*, pp. 19-20.

67. Beginning December 19, 1992, WTVE(TV) broadcast "Adventure Pals." It was a 30-minute program produced by Christian Children's Associates, which contained no product advertisements or commercial breaks. The program used a mix of stories, music, clowns, puppets and special guests to address issues facing children. Topics covered included self-esteem, parent/child relationships and concern for others. RBI Ex. 8, App. X, pp. 18, 22. Although it cannot be determined with any degree of certainty

¹⁸ Previously, WTVE(TV)'s broadcasts for children had consisted of PSAs. RBI Ex. 8, App. X, pp. 1-16, 37-133.

whether “Adventure Pals” aired weekly through the end of the renewal period,¹⁹

WTVE(TV)’s records indicate that it usually broadcast “Adventure Pals” on Sundays at 8 a.m. *Id.*, pp. 22, 140; RBI Ex. 9 (Renewal application, Exhibit III and August 3, 1994, amendment, “Addendum to Children’s Programming”); Adams Ex. 7, p. 81.

68. Beginning January 24, 1993, WTVE(TV) broadcast “Widget.” RBI Ex. 8, App. X, p. 141. “Widget” was a 30-minute program that covered topics related to protection of the environment. RBI Ex. 8, App. X, p. 136. WTVE(TV) usually broadcast (*see* note 19, *supra*) “Widget” on Sundays at 8:30 a.m. *Id.*, p. 141; Adams Ex. 6, p. 115; Adams Ex. 7, p. 81; RBI Ex. 8, App. B (March 6, 1994 log at p. 5); *Id.*, App. V, p. 10; RBI Ex. 9.

69. WTVE(TV) broadcast three other children’s programs, “Kids International,” “Nation of Winners,” and “How Do You Zoo?,” once each during the first quarter of 1993. “Kids International” appeared on February 27, 1993, between 8:40 and 9:10 a.m. RBI Ex. 8, App. X, p. 142. That program “teaches scripture from educational Bible videos.” *Id.*, p. 137. WTVE(TV) aired “Nation of Winners” on March 7, 1993, between 6:30 and 7:00 a.m. *Id.*, p. 143. It featured the Presidential Sports and contained “interviews and segments with children explaining how everyone needs to keep fit.” *Id.*,

¹⁹ RBI’s “Children’s Issues and Program Report[s]” do not list “Adventure Pals” after the first quarter of 1993. RBI Ex. 8, App. X. Nonetheless, WTVE(TV)’s logs and its “Programs/Issues Report[s]” continue to mention the program as well as other children’s shows aired by WTVE(TV) during the renewal period. *See, e.g.*, RBI Ex. 8, App. R, pp. 8-9; Adams Ex. 6, p. 115; Adams Ex. 7, p. 81; RBI Ex. 8, App. B (March 6, 1994 log at p. 5); App. U, p. 7; App. V, p. 10.

p. 138. "How Do You Zoo?" appeared on February 27, 1993, between 9:47 and 10:00 a.m.²⁰ *Id.*, p. 144. It featured a zookeeper who, with a costumed zebra, talked about animal facts and included a question and answer segment involving children. *Id.*, p. 138.

70. Sometime beginning in 1993, WTVE(TV) began airing "The Children's Room" and "Twinkle."²¹ The former featured co-hosts and focused on children's literature and was designed to instill a love of reading in children ages four through eight. The latter was an animated program featuring a magical character with the power to make dreams a reality. The character's adventures were meant to teach children integrity, responsibility and how to save the environment. The programs ran for approximately 30 minutes each and aired consecutively, from 6:00 to 7:00 a.m. on Sundays. RBI Ex. 8, App. S, pp. 7-8; App. T, pp. 7-8; App. U, pp. 7-8; App. V, p. 10; RBI Ex. 9; Adams Ex. 7, p. 80.

Specials

71. In addition to the regularly scheduled programs noted above, WTVE(TV) also broadcast "special long-form programming" during the renewal period. Such programming included inspirational and religious programming (often aired during the Christmas season), documentaries and miscellaneous other specials. Examples of such specials appear in the station's "Programs/Issues Report[s]." RBI Ex. 8, App. C, pp. 23-27; App. L, p. 13; App. P, pp. 15-16.

²⁰ "How Do You Zoo?" was rebroadcast in the fourth quarter of 1993. RBI Ex. 8, App. T, p. 10.

²¹ Although neither program is listed in RBI's "Children's Issues and Program Reports," they are noted in WTVE(TV)'s renewal application and in the station's "Issues and Programs Reports." *Compare* RBI Ex. 8, App. X, *with* RBI Ex. 9 and RBI Ex. 8, App. S, pp. 7-8; App. T, pp. 7-8; App. U, pp. 7-8; App. V, p. 10. *See also* Adams Ex. 7, p. 80.

Miscellaneous

72. The station did not have a regular local news program during the renewal period. Tr. 1746, 1749-51. Mr. Parker opined that the market served by the station would not support program-length newscasts on WTVE(TV), and he noted that WTVE(TV)'s service-area viewers were able to receive news not only from the Philadelphia major network television stations but also from dozens of other media sources, both electronic and print. RBI Ex. 5, pp. 1-2, Appendix A. Although Mr. Bendetti testified that the station received complaints about the absence of a regularly scheduled newscast, he acknowledged that news about Reading would occasionally be broadcast by the Lancaster, Pennsylvania station.²² Tr. 1746, 1786. In any event, WTVE(TV) did broadcast local weather reports, generally several times a day. Tr. 478; e.g., RBI Ex. 8, App. O, p. 2; Adams Ex. 6, pp. 23-24, 80-81; Adams Ex. 7, pp. 25-26, 31. WTVE(TV) also broadcast a variety of religious shows throughout the license term. RBI Ex. 8, p. 6.

Quantitative Summary

73. According to RBI, WTVE(TV) devoted approximately 2.2% of its air time to issue responsive programming in the third quarter of 1989. RBI Ex. 8, App. A, p. 2. By the end of the renewal period, that percentage had increased to approximately 7.6%. *Id.*, p. 19 (2d quarter of 1994). RBI's exhibit reflects that approximately 35% of such programming consisted of PSAs. Adams paints a somewhat different picture of WTVE(TV)'s programming. Using different composite weeks and not including PSAs,

²² Mr. Bendetti further testified that news about Reading would more rarely appear on the Lebanon or Philadelphia stations. Tr. 1786.

Adams calculates that WTVE(TV) devoted 1.5% of its air time to non-entertainment programming during the 1989-90 period and 2.2% to such programming during the 1993-94 period. Adams Exs. 3, p. 1; 7, p. 2.

Community Witnesses

74. In support of its renewal expectancy showing, RBI submitted depositions from persons representing organizations in the Reading area. To a greater or lesser degree, the deponents expressed their satisfaction with the way WTVE(TV) handled their areas of concern. In rebuttal, Adams submitted depositions from persons who were not satisfied with the way WTVE(TV) addressed their concerns. The deponents and their organizations appear below.

75. Warren Haggerty, a life-long resident of Reading, served as Reading's mayor from 1987 through 1995. RBI Ex. 25, p. 4. He recalled appearing on a show called the "The Minute with the Mayor." *Id.*, p. 52. A host would ask a question, and Mr. Haggerty would talk for a minute or so in response. Mr. Haggerty does not know when the program was actually aired.²³ Mr. Haggerty also recalled a community promotion campaign called "Working for a Greater Reading," which aired on WTVE(TV) as a PSA from the spring of 1992 through the end of 1993. *Id.*, pp. 11, 25, 27-30, 32-35, 37-40, 42-45, 47-48, 50.

76. Sandra Kissinger, another life-long resident of Reading, worked with the Berks County Chapter of the American Red Cross. She worked with media in order to promote the Red Cross in the community. RBI Ex. 26, p. 5. Ms. Kissinger recalled that

²³ Although the shooting of the program first occurred after the renewal period ended, it appears that the idea for the program occurred before the renewal period expired. *Id.*, p. 53.

RBI did a promotion for the Red Cross, in conjunction with its efforts to provide assistance following a fire, which burned down a whole city block of buildings. *Id.*, p. 7. Ms. Kissinger verified that WTVE(TV) aired Red Cross PSAs about water safety during the second and third quarters of 1991 and the second quarter of 1992. *Id.*, pp. 14-15, 42, 44, 46-48. The station also apparently assisted the local chapter of the Red Cross in connection with a meeting of a lupus support group, which occurred in the third quarter of 1992. *Id.*, pp. 16, 50. Ms. Kissinger also verified that WTVE(TV) worked with the local chapter of the Red Cross in connection with the WTVE(TV) program, "Health Beat." *Id.*, pp. 17-18, 52. Further, she affirmed that the station worked with the Red Cross in assisting victims of hurricane damage and, generally, through airing Red Cross PSAs and an interview. *Id.*, pp. 18-20, 53, 55. In addition, Ms. Kissinger confirmed that RBI assisted the Red Cross by supplying space in the WTVE(TV) transmitter building to a ham radio club whose primary duty is to supply emergency relay communications to the Red Cross and by promoting a flea market which helps fund Red Cross youth services programs. *Id.*, pp. 20-22, 57, 60, 62. Ms. Kissinger also related that WTVE(TV) aired PSAs regarding an open house at the local chapter of the Red Cross and for aiding victims of floods.²⁴ *Id.*, pp. 23-24, 63, 65. Finally, Ms. Kissinger affirmed that RBI helped raise funds for the Red Cross and aired PSAs warning about the dangers of heat stroke and informing the public about upcoming health and safety classes. *Id.*, pp. 25-30, 67. In her view, RBI was "always there" whenever the Red Cross needed it to promote anything. *Id.*, p. 30.

²⁴ The "Community Outreach" program related to flood victims was broadcast after the renewal period. *Id.*, pp. 65-66.

77. Linda Witman, another life-long resident of the Reading area, is the executive director of the Berks County Chapter of the March of Dimes. RBI Ex. 27, pp. 4-5. Ms. Witman related that WTVE(TV) made a three-minute promotional tape on a fundraising event sponsored by the local chapter of the March of Dimes. *Id.*, pp. 7-9, 34. According to Ms. Witman, WTVE(TV) would also air the March of Dimes' PSA, which was produced annually and served as the agency's primary fundraiser. *Id.*, pp. 8, 35-37, 40-41. Additionally, the station aired segments dealing with issues related to a healthy pregnancy. *Id.*, pp. 12, 28-29, 31-32, 39. Ms. Witman described the benefits of the relationship with WTVE(TV) as, first, raising public awareness of the mission of the March of Dimes, and, second, encouraging people to participate in events that help to raise funds. *Id.*, p. 15.

78. Phyllis Watts is the administrator of "Children's Rights of Pennsylvania, Inc." (In Search of Missing Children)." RBI Ex. 28, pp. 5, 80. Ms. Watts related that her organization would send pictures of missing children for the station to show, which RBI would convert into one-minute spots. *Id.*, pp. 10, 21, 25, 30, 32, 34, 38, 42, 49, 51, 55, 59, 62, 67, 72, 77, 79, 83, 86, 89, 91-92, 98, 102. She described WTVE(TV)'s airing as "extremely helpful." *Id.*, pp. 7. Ms. Watts affirmed that WTVE(TV) broadcasts occurred throughout the license term and she opined that WTVE(TV)'s efforts were "very good" in comparison with those of other area television stations. *Id.*, pp. 9-12, 22-23, 26-28, 35-36, 39-40, 43-47, 52-53, 56-57, 60, 63-65, 68-70, 73-75, 84-85, 93-96, 99-100, 103-05.

79. At the time of his deposition, Ralph Trainer was executive director of "Abilities in Motion," which provides services throughout Berks County to people with disabilities. RBI Ex. 29, p. 5. During the renewal period, Mr. Trainer was the

predecessor organization's (Berks County Center for Independent Living) Americans with Disabilities Act coordinator and then a peer counselor. *Id.*, p. 6. In addition to spots concerning his organization, Mr. Trainer recalled that WTVE(TV) aired programs on behalf of the Office of Aging and on behalf of United Cerebral Palsy. *Id.*, pp. 9-12, 20-21, 23-25, 27-30, 32-35, 37-40, 42-45, 47-50, 52-54, 56, 58. Mr. Trainer testified that the assistance his organization received from WTVE(TV) was comparable to that provided by other local media. *Id.*, pp. 12-13.

80. Ray Schacht verified that, beginning in 1993, he hosted programs ("Elderly Update") meant to address problems of the elderly. RBI Ex. 30, pp. 6-13, 28-40, 42-48, 50, 52-54, 56-60, 62-64, 66-69, 71-72. However, he did not know what station personnel did with the programming after it was taped. *Id.*, p. 18.

81. Jane Meeks Squibb has resided in the Reading area for 10 years. During that period, she has been the solid waste coordinator for the city of Reading. As such, she is in charge of recycling. RBI Ex. 31, pp. 4-5. Ms. Squibb verified that WTVE(TV) aired 30-second PSAs to promote the city's environmental efforts and that the station would give the city a time frame when the PSAs would be broadcast. *Id.*, pp. 8-11, 27-36.

82. Stanley J. McCarty has resided in the Reading area for nearly 50 years and been a police officer there for 28 years. At the time of his deposition, he was the crime prevention supervisor and had been for nine years. RBI Ex. 32, pp. 4-5. Mr. McCarty testified that WTVE(TV) produced Pennsylvania Crime Stopper spots, which name and picture people who are wanted in connection with specific crimes. *Id.*, pp. 9-12, 26-27, 29-32, 34, 36, 38, 40, 42, 46-48, 50-52, 54-56, 62-63, 65-66. He was also involved in producing WTVE(TV) PSAs that covered a variety of topics. *Id.*, pp. 12-13. The station

also provided space for "Reading React," a group that monitors the emergency radio band channel 9. *Id.*, pp. 15-16, 58, 60.

83. Thomas R. Caltagirone has been a member of the Pennsylvania House of Representatives for 23 years. Currently, he is the chairman of the Commerce and Economic Development Committee. Previously, he had been chairman of the Consumer Affairs Committee and of the Judiciary Committee. RBI Ex. 33, p. 4. Representative Caltagirone described the WTVE(TV) program, "Legislative Journal," as a summary of legislative events that occur each month in the Pennsylvania state legislature, and he confirmed that WTVE(TV) carried his appearances on "Legislative Journal" during 1994. *Id.*, pp. 8, 46-47, 55, 63, 69, 71, 73, 82. He also verified WTVE(TV)'s broadcasting of PSAs listed in the station's second quarter of 1994 issues and programs report. *Id.*, pp. 9-12, 49, 52-54. Representative Caltagirone further affirmed that other programs concerning state legislative affairs were broadcast on WTVE(TV). *Id.*, pp. 10, 12-13, 49-51, 56-62, 64-68, 71-73, 75-78, 83, 88. According to Representative Caltagirone, only WTVE(TV) and a cable channel aired enough of the legislative report programs to "get our message across as it concerned public issues and/or public services that were available. *Id.*, p. 13. He affirmed that the station's broadcasts of legislative reports continued into the third quarter of 1994 and included information concerning the first impeachment of a state supreme court justice. *Id.*, pp. 13-14. He further indicated that the station did not charge for the carriage of his program. *Id.*, p. 28. Representative Caltagirone believed that WTVE(TV) "did an exemplary job of allowing public access for the governmental shows" *Id.*, p. 15.

84. Monica Ruano-Wenrich, a long-term resident of the Reading area, has been an employee of the United Way of Berks County since July 1991. RBI Ex. 34, p. 4. She averred that WTVE(TV) broadcast various PSAs concerning the United Way in 1993. *Id.*, pp. 9, 27, 29-30.

85. Ronald Rouse has lived in the Reading area for 15 years. Mr. Rouse produced some segments for the WTVE(TV) program, "Minority Voices." RBI Ex. 35, p. 4. Mr. Rouse recalled viewing during the renewal period the station's calendar of events as well as the local weather. *Id.*, p. 8. As noted above (*see* note 3, *supra*), "Minority Voices" did not appear on WTVE(TV) during the renewal period.

86. Richard Bennett is the scout executive of the Hawk Mountain Council of the Boy Scouts of America and has resided in the Reading area continuously since 1988. RBI Ex. 36, p. 4. Mr. Bennett related that WTVE(TV)'s Mr. Bendetti spoke at two area high schools in 1993 about careers in television in connection with a Career Awareness program run by the Scouts. *Id.*, pp. 7-8, 15. Mr. Bennett recalled PSAs WTVE(TV) aired, which focused on cleaning up the environment, and on being in Scouts as opposed to a gang. *Id.*, pp. 11-12, 18-20, 22-25, 27, 29-30.

87. Douglas F. Didyoung, Sr. is a life-long resident of the Reading area. RBI Ex. 37, p. 4. During the renewal period, Mr. Didyoung was the executive director of Prisoners of War/Missing in Action, Forget-Me-Nots, Inc. The organization is a public awareness group consisting of veterans and civilians who endeavor to have the federal government supply answers about soldiers still missing from various wars. *Id.*, p. 6. Mr. Didyoung is aware that WTVE(TV) aired videos supplied by his organization, which related to the construction of a Vietnam Memorial in Berks County, as well as allegations

that the federal government covered up knowledge about American soldiers held captive long after the Vietnam conflict ended. *Id.*, pp. 8-10, 25, 28, 33, 35. He also related that the station interviewed him in connection with veterans' issues. *Id.*, pp. 12, 14.

88. Joan Breisch, another life-long resident of the Reading area, is the executive director of the Literacy Council of Reading/Berks. RBI Ex. 38, pp. 4-5. The Literacy Council is a non-profit organization that teaches adults to read, write, and, in some cases, speak English. Ms. Breisch was with the Literacy Council throughout the renewal period. *Id.*, p. 5. She recalled the station airing during the renewal period PSAs and one longer program concerning issues related to literacy. *Id.*, pp. 8, 11-14, 16-19, 28, 30-32, 34-38, 40-46, 48-54, 56-61, 63-69, 71-77, 79-85, 87-89, 91, 93-94, 96. She also recalled seeing other PSAs concerning the Humane Society. *Id.*, pp. 15, 34, 40, 48.

89. Daniel Dillard is executive director of the Burn Prevention Foundation and was throughout the renewal period. The organization develops and distributes educational materials and curricula related to the prevention of burn injuries. It also works to coordinate a comprehensive regional health care network of providers of burn care services. RBI Ex. 39, pp. 3-4. Mr. Dillard confirmed that WTVE(TV) provided assistance in connection with the Burn Foundation's fund raising event, the Concours D'Elegance, and that it did not charge the Burn Foundation for its services. *Id.*, pp. 5-7, 18, 20-21, 23, 25, 27. Mr. Dillard also confirmed that WTVE(TV) aired PSAs from the Burn Foundation as well as "News to You" segments concerning the Burn Foundation and the National Fire Protection Association. *Id.*, pp. 8-10, 33, 37, 41, 46.

90. Michael A. O'Pake, a life-long resident of the Reading area, filmed monthly a 30-minute program called "Report to the People." RBI Ex. 40, pp. 4-5. The program is

meant to inform the people of Berks County about the activities of the legislature in Harrisburg. *Id.*, pp. 5-6. Although Mr. O'Pake could not confirm whether the program aired during the renewal period, he acknowledged that he was contacted by WTVE(TV) in July 1994 with regard to a program which was to be taped and aired later in 1994. *Id.*, pp. 7-8, 39.

91. Frederick C. Windbeck, Jr. is the founder and executive director of the Switchback Gravity Railroad Foundation, a volunteer organization established in 1986, which seeks to restore Pennsylvania's first railroad. RBI Ex. 41, pp. 7-8, 11. He related that WTVE(TV) worked with the Foundation to produce a relatively low-cost film for the purpose of promoting the Foundation and informing the public about the railroad. *Id.*, pp. 9-10, 24, 27, 30.

92. John Loos has been the emergency management coordinator for Berks County since the late fall of 1992.²⁵ Adams Ex. 44, p. 6. He has resided in the Reading area for 14 years. Mr. Loos is responsible for coordinating the responses and recovery that would follow an emergency. *Id.*, p. 7. In situations warranting warnings to the public, he uses an emergency alert, which is handled by two county radio stations. *Id.*, pp. 9-10. Alternatively, local broadcast media inform the general public, typically in responding to a weather emergency. *Id.*, p. 10. According to Mr. Loos, WTVE(TV) did not contact him or his agency in connection with getting information related to a local blizzard. *Id.*, pp. 14-15. Mr. Loos could recall that the WTVE(TV) only contacted him to do a "short program." *Id.*, pp. 28-29. However, nothing ever came of it. *Id.*, p. 23. Mr.

²⁵ Mr. Loos' deposition mistakenly refers to Burke, rather than Berks, County. Adams Ex. 44, *passim*.

Loos does not recall whether WTVE(TV) provided any air coverage with respect to any local emergency that occurred during the renewal period. *Id.*, p. 28. Those emergencies included two blizzards and an earthquake, and various water main and electrical problems related therewith. *Id.*, pp. 17-27.

93. Lawrence Medaglia is currently the elected Registrar of Wills and Clerk of the Orphans Court for Berks County. He is a life-long resident of the Reading area. Adams Ex. 45, p. 5. Previously, he was the administrative supervisor of the Berks County District Attorney's office. *Id.*, p. 8. Mr. Medaglia related that, so far as he knew, WTVE(TV) never broadcast any programming related to the District Attorney's office, nor did it contact the District Attorney's office. *Id.*, p. 13. During the renewal period, according to Mr. Medaglia, the only television news coverage available was channel 69 from Allentown, the Philadelphia media or possibly channel 8 from Lancaster; there was nothing from WTVE(TV). *Id.*, p. 16. In this regard, however, Mr. Medaglia was not aware of the station's airing of Crime Stopper PSAs or its governmental affairs programming. *Id.*, p. 19.

94. James Troutman was the Berks County Clerk of Courts during the renewal period. Adams Ex. 46, p. 5. He has been a resident of Berks County for 25 years. *Id.*, p. 6. In the course of his duties, Mr. Troutman attends meetings of the Berks County Commissioners. *Id.*, p. 7. So far as he knew, WTVE(TV) never covered any meeting of the county commissioners. *Id.*, pp. 13-14. Likewise, Mr. Troutman had no knowledge of WTVE(TV) ever providing any news coverage of any local, state or national elections during the renewal period. *Id.*, p. 17. If Mr. Troutman wanted to view any stories about news related to Reading, he would watch channel 8 from Lancaster. *Id.*, p. 18.

95. Roger Kimpland has resided in the Reading area for the past 25 years. For the past 20 years, he has been the media coordinator for the Reading Area Community College. Adams Ex. 47, pp. 5-6. If he wanted to watch coverage of local news and events during the renewal period, Mr. Kimpland would watch channel 8. *Id.*, p. 9.

96. David Baldinger is a television producer for Lucent Technologies. In the early 1980s he was the operations manager for WTVE(TV) and had also worked for channel 69, Allentown. He has resided in Reading since 1984. Adams Ex. 48, pp. 5-6. During his tenure at WTVE(TV), the station had two news broadcasts per day, Monday through Friday, with two-minute updates during the evening and on weekends. According to Mr. Baldinger, the newscasts were basically locally oriented and included coverage of city council and county commissioners' meetings, local elections and local criminal enforcement activities. *Id.*, pp. 7-8. Mr. Baldinger further related that, after WTVE(TV) stopped covering local news (sometime in the mid-1980s), the only broadcast television coverage of news local to Reading was provided for a brief period by channel 15 in Lebanon and, infrequently, by channel 69 in Allentown. *Id.*, pp. 8-9. So far as Mr. Baldinger knew, WTVE(TV) did not provide any local news coverage of Reading or Berks County during the renewal period. *Id.*, p. 10. Mr. Baldinger testified that while Philadelphia market television stations would not have carried news of interest to residents of Berks County, some of the stations closer to Reading would have. *Id.*, pp. 14-15. *See also* RBI Ex. 5, Appendix A, p. 1.

WTVE(TV) Community Activities

97. During the renewal period, WTVE(TV) was involved in a number of non-broadcast activities that demonstrate efforts at community outreach, some of which have

already been noted in connection with community witnesses. Those efforts included assisting the Red Cross (§ 76, *supra*), providing space for Reading React (§ 82, *supra*); assisting the Burn Foundation with its fundraising (§ 89, *supra*); and producing a film for the Switchback Gravity Railroad Foundation (§ 91, *supra*). Additional efforts included school visits at which time RBI personnel spoke to the students about careers in broadcasting and visits to the station's studio by local youth groups. RBI Ex. 6, pp. 7-8; RBI Ex. 8, App. P, p. 30; App. R, p. 274; App. S, p. 220; App. T, p. 166; RBI Ex. 36, pp. 7-8, 15. RBI also assisted: the Spring Township police in preparing an informational video (RBI Ex. 8, App. N, pp. 19, 21); the West Lawn Fire Company in producing tapes of the company's 75th anniversary parade, which the company planned to resell as a fundraiser (RBI Ex. 8, App. P, p. 26); local high schools in producing their own shows (*Id.*, p. 27); produced a five-minute segment about the Reading Rehabilitation Hospital, which aired on a local cable system (*Id.*, p. 31); donated space for the translator of the Harrisburg public television station (*Id.*, p. 32); distributed fliers that explained the CHEERS non-alcoholic dairy beverage program (RBI Ex. 8, App. V, p. 59); donated equipment and support services in conjunction with the production of a video regarding the effects of teenage drinking and driving (*Id.*, p. 60); and participated in meetings of local women's groups, usually in connection with discussions about careers in broadcasting (*Id.*, pp. 62, 65-67).

Licensee Record of Compliance with FCC Rules and Policies

98. The hearing focused on several matters of significance relative to the licensee's record of compliance. Those matters included apparent non-compliance with various Commission reporting requirements as well as a possible violation of Section